

# EXHIBIT 1



## Memorandum

To Rich Cocos

Date July 24, 2003

From James M. Van Dyk , Manager,  
Corporate Credit Fax 616.698.3863

Voice 508.478.4974

Subject Harbins, Inc. Dealer Termination Memo

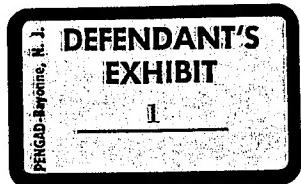
This memo is to provide background information for the purpose of moving to terminate Harbins, Inc. of Montgomery, AL. Harbins has been and remains in default of their credit agreements with Steelcase for nonpayment of their trade account. At present, Steelcase is owed \$368m, with nearly all of it over 90 days past due. Numerous attempts to resolve this issue have been unsuccessful and we believe legal action will be required to affect a recovery.

#### **Background:**

- Harbins was founded 1949 in Montgomery, AL by Charles T. Harbin.
  - Harbins is one of two dealers covering the Montgomery market, the other is Kyser Officeworks.
  - Harbins was incorporated in AL in 1990.
  - Ownership is held by Michael G. Harbin, Jr., 75% and Michael G Harbin, Sr., 25%

#### Performance Summary:

- Harbins showed a profit of \$101m the fiscal year ending 12/31/2001 had stockholders equity of \$5m.
  - Financial Information for the fiscal year ending 12/31/2002 has not been provided to Steelcase, but it is believed that Harbins suffered significant loses to the point where the company has now become insolvent.
  - Harbins has been on maximum credit hold since November, 2002 and we have been requesting financial information and a plan on how Harbins will repay the amounts owed to Steelcase since that time.
  - In February, 2003 Steelcase retained Quarles & Brady to send a demand letter to Harbins for the amount owed and a plan for repayment. Michael Harbin agreed to send a partial payment and provide a plan but failed to do so.
  - Jim Van Dyk spoke with Michael in May and offered to forebear on legal action for an additional three months (to give Harbins time to repay Steelcase) provided Michael would sign a Personal Guaranty for the amount owed to Steelcase and a Forbearance Agreement. Michael originally agreed to sign the documents but never returned them.
  - To our knowledge, Harbins has not entered any orders since May, 2003.





Based on the above information, we feel that Harbins is incapable of satisfying Steelcase customer needs in the Montgomery, AL market. We further believe that it is in the best interest of Steelcase to terminate its relationship with Harbins and immediately commence legal action to recover the amounts owed.

Please feel free to contact me with any questions or comments about the above.

James M. Van Dyk

# EXHIBIT 2



Departmental Correspondence

To Credit File

Date February 5, 1991

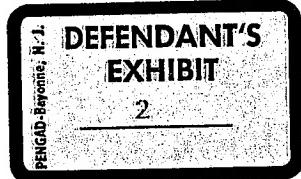
From Marvis James

Subject Harbins, Inc.

Received call from Michael Harbin regarding three big projects totalling approximately \$3Million. Two are for Herbert AFB and Steelcase has already been specified. The remaining one is for State of Alabama, Economic Development Board (bidding against Hayworth).

Advised Michael that SFSI would be the route to consider for these, but since we do not have a secured position, currently we would need to send him documents for 2nd position and also SFSI forms. I informed him that since change in ownership, we would need new dealer application and secured position which is required. He said had sent dealer application to G.R. already ( I later verified with Linda Huene that he had, and she said she sent it to Atlanta Office 1/23/91). Michael was not favorable toward giving us security although I explained to him the reason. He asked that I send him the documentation.

MJ:jj  
DRAFT 4



Case#05-04-00888026TR0SC Document 11616 Filed 12/29/2005 Page 6 of 53  
Date and time 12/29/2005 10:03:11  
From: MARVIS JAMES --GRNDRPDS  
To: ERBA --GRNDRPDS Erba, Joseph

Subject: Marvis James  
Object: Harbins, Inc., Montgomery, AL

We discussed our need for a secondary security position as result of the change in ownership with Joel. Our position remains that we should insist on getting the secured position this time as a matter of company policy for new dealerships changes in ownership. Michael should be advised that we will hold his dealership application in our department and not continue the approval process until he executes and returns the documents that I sent to him. You can also refer to the fact that he agreed in writing on the credit application to give Steelcase a secured position.

Please call me if you have further questions.

Thanks,

\$\$\$\$	\$\$\$\$\$\$\$\$\$\$\$\$\$\$\$\$\$	\$\$\$\$
\$\$\$\$	Marvis James - Credit Dept.	\$\$\$
\$\$\$	Ex: 7-2102      CH-3E-14	\$\$\$
\$\$\$	\$\$\$\$\$\$\$\$\$\$\$\$\$\$\$\$\$	\$\$\$

: JERBA --GRNDRPDS  
: MJAMES --GRNDRPDS James, Marvis

object: Harbins

(3/11) (3/12)

--is, yesterday I met with Michael Harbin and discussed among a number of things our requirement of his signature on the security documents sent.

though Michael is receptive to signing something, he has some problems with the terms of our agreement. Specifically, he is not interested in providing personal guarantees (i.e. pledging his personal property) as he states is a condition of the agreement. His point is that his organization is chartered as an corporation and has sufficient assets to support the credit requirements.

so, he states that there has always been some sort of credit agreement in place and that we just can't locate our records. Also, he states that although the ownership percentages have changed, the corporation that has been operating for 43 years has not. Since our arrangement is with the corporation and not Michael Harbin, personally, we should be satisfied.

rviss, I don't agree with all of Michaels's points or positions and he is not of that. But frankly, since Michael is well-schooled in the points of law & contracts from his educational and banking experience background, I am not able to provide a strong argument. Unfortunately, I am going to have to hand this issue back to you and Joel and if need be our legal dept to handle.

ain, he's willing to discuss and do something. Also, be aware that Michael had seemingly very specific and confidential info on a number of our dealers and their UCC(?) info. He knew that certain dealers didnot have similar security agreements with Steelcase (i.e. IACO) and recited some specific info about our arrangement with Lander's (i.e. what he has pledged etc., etc.) I don't have the faintest ideas how he got that info. Let me know.

: JVANDERW--GRNDRPDS VanderWall, Joel M

Steelcase Inc.

The Office Environment Company

Grand Rapids, MI 49501-1967

March 21, 1991

Mr. Michael G. Harbin, President  
Harbin's Incorporated  
300 South Perry Street  
Montgomery, AL 36104

Dear Michael:

Since talking with you on March 18, I have conferred with our Credit Manager, Joel Vanderwall and Joe Erba regarding your refusal to provide Steelcase with a security interest in the accounts receivable and inventory of Harbin's. We have also presented this situation to our senior management.

Based upon your past payment history and tenure as a Steelcase dealer, we have decided to approve your dealership application and continue to extend to you an open line of credit. The line of credit extended will be in the amount of \$75,000, and is contingent upon your continuing to take advantage of the cash discount on a monthly basis. This line also assumes that no significant adverse changes will take place in the financial condition of Harbin's Inc. In order to evaluate your continuing credit requirements, we may from time to time request that you provide interim financial statements in addition to our normal request for fiscal statements. In the event your credit requirements exceed this line of credit, we will request that you provide appropriate credit arrangements.

Please call me at (616)247-2102 if you have any questions.

Sincerely,



Marvis James  
Regional Credit Manager

MJ:jj

cc: Joel Vanderwall, Joe Erba

Printed for: Marvis.James

Dept: Credit

11/08/02 11:54 AM

From: Marvis.James@STC001  
To: Steven.Waugh  
Sent: 11/8/02 at 11:53am  
Subject: RE:(no subject)

Steve,

Fyi....this is a dealer that Randy was credit managing and that I am now handling during our transition until we decide on our structure. When I reviewed the file and became familiar with the status of the account via Doug Wilson, it became obvious that there were issues that Randy should have addressed on our end much sooner. This is a potentially very risky situation as we do not have a security agreement with Harbins and Michael Harbin from a historical perspective has been very obstinate and difficult to work with. We may need to consider reserving this account just in case we end up with a serious collection problem. Please let me know if you want to discuss in more detail. (please see my other e-mail also sent to you today for additional info.)

Marvis James  
Manager, Dealer Financial Accounts  
(616) 247-2102 (phone)  
(616) 246-4989 (fax)  
MJJames@steelcase.com

<----- Forwarded letter follows ----->

Date: 11/7/02 at 5:46pm  
To: ROOK321@aol.com  
Cc: Rich.Cocos  
From: Marvis.James@STC001  
Subject: RE: (no subject)

Michael,

You will find the following items attached:

- 1) Credit control letter
- 2) Itemized listing of the past due items
- 3) Itemized listing of orders on credit control

It is very important that you contact me immediately with your plan for repayment of the past due items. Please contact me if you have any questions.

Marvis James  
Manager, Dealer Financial Accounts  
(616) 247-2102 (phone)  
(616) 246-4989 (fax)  
MJJames@steelcase.com

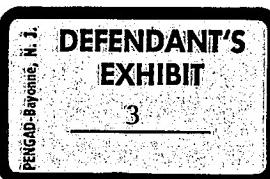
<----- Forwarded letter follows ----->

Date: 11/6/02 at 12:14pm  
To: MJAMES  
From: ROOK321@aol.com  
Subject: (no subject)

Well, we wasted a whole day going down your spread sheet. Turns out all the nickel and dime amounts are service charges. Send me a CLEAN statement with just what you show open. We Show only maybe half of what you show open at the most. But we have gathered all of our remitted amounts and will compare to the Clean report. Looks like there are amounts not posted to the account.

# EXHIBIT 3

1 A Correct.  
2 Q Okay. And then Retail Enhancement Services, that was  
3 an LLC?  
4 A I believe it was, or an "S" corporation. I don't  
5 really remember.  
6 Q And who all had an ownership interest in that?  
7 A Myself, an individual named John Doody, and Tom  
8 Methvin, I believe.  
9 Q Metham (ph.)?  
10 A Methvin, M-e-t-h-v-i-n.  
11 Q Is that still operating?  
12 A No.  
13 Q And when did that end?  
14 A I believe in '99 or whatever the last date I had told  
15 you.  
16 Q I think you said 1998.  
17 A '98, '99. I don't know.  
18 Q And what kind of business was that?  
19 A It was a stand-alone kind of mini Office Depot.  
20 Q I'll ask you about that in a minute, but I just don't  
21 want to lose my train of thought. I was just thinking,  
22 we were just talking about your sale of your future  
23 interest to myofficeproducts.com.  
24 A Um-hmm.  
25 Q What happened to all the other assets?



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1 had mentioned myofficeproducts.com also purchased?  
2 Does that sound right?  
3 A It was seven weeks prior --  
4 Q Prior to April 30th?  
5 A No, that doesn't sound right. I think I said January  
6 '04 --  
7 Q Okay.  
8 A -- on a particular date is when myofficeproducts charge  
9 customers went to myofficeproducts.  
10 Q Okay. And so seven weeks prior to April 30th you had  
11 your asset sale?  
12 A The sale was seven weeks in duration, so take April  
13 30th and back up seven weeks and that's when we  
14 started.  
15 Q That helps. I was wondering. I thought how do you  
16 keep remembering seven weeks prior. Okay. Do you have  
17 any records of that sale?  
18 A No.  
19 Q Did you bring in any revenue at that sale?  
20 A We did.  
21 Q Didn't you need those records for your taxes this year?  
22 A We filed a final tax return at the end of that sale.  
23 Q Where did all the proceeds from that sale go?  
24 A The bank came in at that time and had taken the  
25 business over when I explained to them what we were

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1 A What assets?  
2 Q Everything that you used to --  
3 A As I stated earlier, no assets left Harbin's,  
4 Incorporated.  
5 Q Okay.  
6 A Future revenue, whether that be a dollar or ten  
7 trillion dollars, went to myofficeproducts.  
8 Q Did you sell your -- all the other assets at another  
9 time?  
10 A The only time we sold our assets, meaning furniture,  
11 fixtures, inventory, is when a cash-paying customer  
12 would come in and say, "I want to buy this piece of  
13 paper." All right. Then we'd say, "All right. It's  
14 \$2." And that would go into Harbin's, Incorporated.  
15 If you walked in and wanted to charge, that went to  
16 myofficeproducts.  
17 Q Right. But aside from myofficeproducts.com --  
18 A And then when we had our sale, that's when we sold  
19 fixtures, furniture and all that kind of stuff.  
20 Q When was that?  
21 A Seven weeks prior to April 30th, or it was a seven-week  
22 sale that ended on April 30th.  
23 Q Of what year?  
24 A 2004.  
25 Q Now, seven weeks prior, that's the same date that you

1 trying to do, so every day the bank would come in,  
2 which was fine with me because I wanted them to know  
3 what we were doing was on the up and up.  
4 They took in all the cash receipts, the  
5 charge receipts, the count of the money, the authorized  
6 payment of any vendor or any check that we wrote. So  
7 the bank came in and essentially took over the company  
8 at that time. And they would take the money out every  
9 day and then they'd come back the next day and count  
10 the cash drawer and check on our A.R.'s and the mail  
11 that would come in, and they'd post it to the lock box  
12 they set up and so forth. They collected all the  
13 receipts and they essentially handled it. We just  
14 handled the sale.  
15 Q So they checked all the receipts. Do they have those  
16 records?  
17 A They might.  
18 Q Just for clarification, any proceeds from that sale  
19 went to the bank?  
20 A Every proceed from that sale went to Colonial Bank.  
21 Q Okay. That was a detour. So back to -- what was it?  
22 Retail Enhancement?  
23 A Um-hmm. I guess.  
24 Q Retail Enhancement Services? You said that was a  
25 stand-alone mini Office Depot, and I think you were

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# EXHIBIT 4

1 A Okay.  
2 Q At what banks did Harbin's have bank accounts?  
3 A South Trust Bank and Colonial Bank.  
4 Q Do they have lines of credit at either of those?  
5 A Just at Colonial Bank.  
6 Q And at what banks did Harbins-Stern Brothers have bank  
7 accounts?  
8 A Colonial Bank, Aliant Bank, and that's all I can think  
9 that we had.  
10 Q Okay. So they didn't have one at -- Harbins-Stern  
11 Brothers did not have one at South Trust?  
12 A No, I don't think we did.  
13 Q The account at Colonial, did Harbin's have a separate  
14 account from Harbins-Stern Brothers?  
15 A No.  
16 Q So Harbin's and the Harbins-Stern Brothers account at  
17 Colonial was the same?  
18 A Correct.  
19 Q Okay. Did Harbins-Stern Brothers have a line of credit  
20 at Colonial as well, then?  
21 A Harbins-Stern Brothers had a line of credit.  
22 Q Was that the same line of credit as Harbin's?  
23 A Correct.  
24 Q Did Harbins-Stern Brothers have lines of credit  
25 anywhere else?

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1 regardless of whether they were from Harbin's or  
2 Harbins-Stern Brothers?  
3 A What I gave to Bob was a checkbook, the check that was  
4 written out, who it was for and the stub, and that's  
5 what he has.  
6 Q I'm going to ask you questions about -- well, first let  
7 me ask you about an asset sale. Did you have an asset  
8 sale of all the assets of Harbin's at any point?  
9 A Yes.  
10 Q When did you decide to have that sale?  
11 A Seven weeks prior to April 30th. No, I take that back.  
12 Months before that. I don't know the exact date.  
13 Q Prior to April 30th what year?  
14 A 2004.  
15 Q Why did you decide to have an asset sale?  
16 A To pay back our vendors, and Harbin's, Inc., book of  
17 business had been sold to another company.  
18 Q What company did you sell it to?  
19 A Myofficeproducts.com.  
20 Q Who owns that?  
21 A It's a corporation out of Tennessee.  
22 Q And they just purchased your book of business? They  
23 didn't actually purchase Harbin's?  
24 A Correct. They purchased no assets other than future  
25 revenue.

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1 A No.  
2 Q And they didn't bank with South Trust?  
3 A No.  
4 Q The check stubs that you provided Bob Smith, were those  
5 for Harbin's or Harbins-Stern Brothers or both?  
6 A I think they were a combination of both.  
7 Q Is there any way to tell which are from which business?  
8 A Yes. There's some unused checks still in the register  
9 -- or still in the book, the checkbook. So the name on  
10 it would denote --  
11 Q But if it's just the stub, how do you know?  
12 A I don't.  
13 Q Okay. So as I'm going through those books and looking  
14 through those records, if I see stubs -- a stub, it  
15 could be from Harbin's or it could be from Harbins-  
16 Stern Brothers?  
17 A That's correct.  
18 Q And there's no way of knowing unless there's still a  
19 copy of the check in there?  
20 A That's correct.  
21 Q Were the books, the way that you gave them to Bob, is  
22 that how they were as the business was running?  
23 A Explain that.  
24 Q Sorry. You gave Bob three large books of stubs. As  
25 those stubs came in, they were just put together

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1 Q Weren't you already in some financial struggles at that  
2 point with Harbin's?  
3 A At what point?  
4 Q Well, you had said months -- several months prior to  
5 April 30, 2004, and you had mentioned before that you  
6 were having some economic struggles in that period; is  
7 that correct?  
8 A I believe so.  
9 Q And so even though your business was suffering, --  
10 A Um-hmm.  
11 Q -- they purchased it for future revenue?  
12 A They did.  
13 Q And they only purchased your book of business?  
14 A They purchased future revenue. Whether it was a  
15 million dollars in revenue or a dollar, that's what  
16 they purchased.  
17 Q How do you purchase that? Sorry to sound naive.  
18 A That's a good question. How do you purchase the  
19 unknown?  
20 Q Well, I mean, what did they actually buy? What did you  
21 hand over to them?  
22 A Nothing.  
23 Q So they -- sorry. I'm struggling to understand. They  
24 paid you and you gave them -- I mean I understand  
future revenue --

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# EXHIBIT 5

1 Q Did it happen more than once?	1 there -- like an annual renewal that we pulled out or a
2 A A couple of times it did. Exactly when, normally	2 five-year lease or anything like that?
3 through the course of my divorce, as you know, and the	3 Q We are getting close to the end. I'm sure everybody's
4 information Hope has supplied you all. When I was not	4 bellies are rumbling. Do you remember when Harbin's,
5 making the income to satisfy -- excuse me. Strike	5 Incorporated -- and I know we have talked about this,
6 that. When I was not able to provide in the way that	6 but I just want to get it --
7 some think I should when the business was struggling	7 A Okay.
8 after the events of 9-11, as I attested to earlier, so,	8 Q -- firm so that I can --
9 yes. But do these amounts -- were they significant?	9 A I understand.
10 No. Is there an amount that the corporation still owes	10 Q -- understand fully. I'm trying to understand when
11 me? Yes. Will I receive it? No. So --	11 Harbin's, Incorporated, stopped paying their debts to
12 Q You said that Harbin's rented space on Perry Street?	12 Steelcase particularly. Do you remember when that was?
13 A I did not.	13 A I think it was right after Steelcase -- well, no. My
14 Q Because it owned that 1 percent of M&M Properties?	14 understanding was just flat refused to send that stupid
15 A Harbin's was a member of M&M Properties, LLC, and they	15 \$200 keyboard tray that held up a \$12,000 check payment
16 were a 1-percent member.	16 from the insurance company that I was going to
17 Q Okay.	17 overnight to Marvis to keep the flow of business in.
18 A Harbin's never did pay rent above the mortgage and the	18 2002, I think.
19 interest payment to the bank.	19 Q 2002?
20 Q Oh. So Harbin's paid the mortgage payment?	20 A They would have records of that, their last open P.O.
21 A Right.	21 date or ship order date when I was on super credit,
22 Q Okay. And that was sort of an informal rental	22 double secret management control with Marvis and
23 situation so that Harbin's could occupy that building?	23 everybody else.
24 A Yeah. The building was held by the corporation. We	24 Q Right.
25 pulled it out of the corporation and put it in this	25 A Which was unfortunate, but, you know, that happened.

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1 LLC, but we never did formally juice up the rent to	1 Q And do you think in 2002 that the assets of Harbin's,
2 what other owners were doing, what my former business	2 Incorporate, were greater than their liabilities and
3 partner was doing. We never tacked on the extra	3 debts?
4 thousand dollars in rent.	4 A Again, I'd have to look at a balance sheet. I was
5 We just strictly paid the mortgage and the	5 going through that divorce and I think if he hadn't
6 interest, and then the K-1's flew through myself and my	6 spoken to my ex-wife, I know other people have, and
7 sister each year and we unfortunately had to pay the	7 trying to run that business, trying to maintain a
8 tax on that K-1, but we never even, quote, bonused that	8 relationship with my children, and fighting an economy
9 money out to cover the tax, even though we were told to	9 that was in the tank for this industry was very
10 do so by our accountants.	10 difficult.
11 But we just -- I tried very hard to keep as	11 So if I could tell you off the top of my
12 much cash and capital in the corporation, because this	12 head, you know, I think you could tell by my testimony
13 was a small company, as much as I could.	13 today, I certainly would. I would have to look and
14 Q Did M&M Properties -- I apologize if you've already	14 see. I don't have those records. I walked out of that
15 answered this -- did they own any other properties?	15 building on April 30th with bad memories and nightmares
16 A No.	16 and I didn't look back, and so if there's -- if you
17 Q So they just owned Harbin's space on South Perry	17 have a record somewhere that I can look at, I'll be
18 Street?	18 happy to and then I can tell you yes, they exceeded, or
19 A That's correct. And South Perry was an entire city	19 no, they did not. But I don't know off the top of my
20 block. They owned that one parcel of property and	20 head.
21 that's it, which the bank has subsequently foreclosed	21 Q Are your records generally -- such records as this
22 on.	22 (pointing to Exhibit 9), would that accurately reflect
23 Q So there was no formal rental agreement between M&M	23 -- that's a 2002 record. Would that accurately reflect
24 Properties and Harbin's?	24 your assets and liabilities during 2002? I'm sorry.
25 A There might have been when it was first created, but	25 When I said "that," that was Exhibit 9.

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DEFENDANT'S  
EXHIBIT

5

# EXHIBIT 6

GUARANTY

1.. In consideration of any credit heretofore or hereafter extended to HARBIN'S, INCORPORATED, an Alabama corporation, whose address is 300 S. Perry Street, Montgomery, Alabama 36104 ("Debtor"), by STEELCASE INC., a Michigan corporation, whose address is 901 - 44th Street S.E., Grand Rapids, Michigan 49508, or any Steelcase subsidiary now existing or hereafter acquired or formed by Steelcase, including, but not limited to, those listed on the attached Exhibit A (hereinafter collectively referred to as "Creditor"), the undersigned hereby absolutely and unconditionally guarantee(s) prompt payment when due and at all times thereafter of any and all existing and future indebtedness and liabilities of every nature and kind, including all renewals, extensions and modifications thereof, now or hereafter owing from Debtor to Creditor, however and whenever created, arising, evidenced or acquired, and all interest accrued thereon (hereinafter collectively called the "Indebtedness"), in connection with Debtor's Purchase Order Number(s) P00000396, P00000405, P00000406, P00000413, P00000422, and P00000443 to Steelcase, including all renewals, extensions, and modifications thereof, and the undersigned further agrees to reimburse Creditor for all costs, attorneys' fees and other expenses at any time expended or incurred by Creditor in the collection or attempted collection of the Indebtedness, or in the enforcement of this Guaranty.

2. The undersigned warrants and represents to Creditor that all financial statements and other information concerning the Debtor or the undersigned or both now or hereafter furnished to Creditor are and will be true and correct in all material respects; that the execution, delivery and performance of this Guaranty by the undersigned will not violate any law, rule, judgment, order, agreement or instrument binding upon the undersigned, nor require the approval of any public authority or other third party; and that this Guaranty constitutes the valid and binding obligation of the undersigned, enforceable in accordance with the terms hereof.

3. The undersigned waives notice of the acceptance of this Guaranty and of all extensions of credit hereunder. The undersigned further waives presentment, protest, notice, demand or action of any nature on any delinquency with respect to the Indebtedness, including the right to require Creditor to sue or otherwise to enforce payment thereof or to enforce any other security or other guaranty given therefor, unless creditor fails to perform in delivery of product and transfer of title. Delivery of goods to common carrier constitutes delivery to Debtor. The undersigned waives any and all claims and rights (whether arising in equity, at common law, or under a statute or contract) that arise from or relate to the undersigned's execution, delivery or performance of this Guaranty. This waiver

includes, but is not limited to, any right of reimbursement, subrogation, contribution, indemnity and exonerations, and any right to participate in any claim or remedy that Creditor at any time has against the Debtor or with respect to any security for the Indebtedness.

4. This Guaranty is made and shall continue as to any and all Indebtedness incurred or arising prior to receipt by Creditor of written notice of the termination hereof from the undersigned, including any and all extensions, renewals and modifications thereof made at any time thereafter. Any such notice shall be effective only as to the person giving the same, and this Guaranty shall continue in full force and effect as to any of the undersigned not giving such notice.

5. The liability of the undersigned hereunder is joint and several. The liability of the undersigned hereunder is independent of, and may be exercised regardless of, the existence of any other security or guaranty at any time in effect with respect to all or any part of the Indebtedness and regardless of any failure of Creditor to perfect or secure any priority of its rights with respect to any security at any time given, or agreed to be given, by Debtor or by the undersigned or any other guarantor or third party, for the Indebtedness or for the obligations of the undersigned hereunder.

6. Creditor is authorized from time to time, and without notice to the undersigned, to give and make such extensions, renewals, modifications, indulgences, settlements, and compromises as it may choose with respect to the Indebtedness, including the taking, releasing, surrender, exchange, settlement, compromise, waiver, subordination or modification of any security or guaranty, with or without consideration, on such terms or conditions as may be acceptable to Creditor, without in any manner affecting or impairing the liability of the undersigned hereunder. Creditor is authorized to release or modify the obligations of or surrender any security given by or waive any rights against any of the undersigned, without in any manner affecting or impairing the liability of the other undersigned.

7. Failure of Creditor to insist in any one or more instances upon strict performance of any one or more of the provisions of this Guaranty or to exercise any rights hereunder shall not be construed as a waiver of any such provision or provisions or the relinquishment of any such rights, but the same shall continue and remain in full force and effect.

8. This Guaranty embodies the entire agreement between the undersigned and Creditor with respect to the subject matter hereof. There are no promises, terms, conditions or obligations other than those contained herein. This Guaranty may not be modified except by writing signed by the party to be charged.

9. This Guaranty shall be construed according to the laws of the State of Michigan, in which state it shall be performed by the undersigned. The undersigned agrees that any action against the undersigned for the enforcement of this Guaranty may be brought by Creditor in any municipal, state or federal court in Kent County, Michigan, having jurisdiction of the subject matter, and the undersigned consents that any such court shall have personal jurisdiction over the undersigned with respect to any such action.

~~WMA~~ 15. This Guaranty shall be binding upon the undersigned, executors, administrators, legal representatives, successors and assigns, and each of them respectively, and shall inure to the benefit of Creditor, its successors and assigns.

11. The undersigned represents and warrants that they have entered into no other guaranties whatsoever, except as specifically set forth below:

The undersigned agrees that they will not enter into any other guarantees without the written consent of Creditor.

12. If any payment by (i) the Debtor or (ii) any of the undersigned to Creditor (a "Payment") is held to constitute a "preference" or the like under the Bankruptcy laws, or if for any other reason Creditor is required to refund any Payment or pay the amount thereof to any other party, such Payment shall not release any of the undersigned from any liability hereunder. Instead, the undersigned shall remain fully liable to Creditor for the amount of the Payment and shall pay the amount of any such Payment to Creditor upon demand. This Guaranty shall continue to be effective or shall be reinstated, as the case may be, to the extent of any such Payment, Payments, preference or disgorgement.

13. The Guarantor shall not be deemed a "creditor" of the Debtor with respect to the Indebtedness as said term "creditor" is defined in the U.S. Bankruptcy Code, as amended.

14. Whenever in this Guaranty words, including pronouns, are used in the masculine, they shall be read in the feminine or neuter whenever such a gender would apply, and vice versa, and words in this Guaranty that are singular shall be read as plural whenever the latter would so apply and vice versa. The word "undersigned" when used herein shall include each and every person executing this Guaranty, whether such persons are corporations, partnerships, natural persons or any other person of recognized legal capacity.

15. THE UNDERSIGNED ACKNOWLEDGES HAVING READ ALL OF THE PROVISIONS OF THIS GUARANTY.

Dated: 6-10, 1993

Witnesses:

Lynn Hammer

Lynn Hammer

Michael G. Harbin

Hope D. Harbin

Michael G. Harbin  
Hope D. Harbin

as/W6/MJ060201

EXHIBIT A

Steelcase Financial Services Inc.  
901 - 44th Street S.E.  
Grand Rapids, Michigan 49508

Stow Davis Furniture Incorporated  
67742 County Road 23  
New Paris, Indiana 46553

Stow Davis Architectural Woodwork Incorporated  
850 Elkton Drive  
Colorado Springs, Colorado 80907

# EXHIBIT 7

GUARANTY

1. In consideration of any credit heretofore or hereafter extended to HARBIN'S, INCORPORATED, an Alabama corporation, whose address is 300 S. Perry Street, Montgomery, Alabama 36104 ("Debtor"), by STEELCASE INC., a Michigan corporation, whose address is 901 - 44th Street S.E., Grand Rapids, Michigan 49508, or any Steelcase subsidiary now existing or hereafter acquired or formed by Steelcase, including, but not limited to, those listed on the attached Exhibit A (hereinafter collectively referred to as "Creditor"), the undersigned hereby absolutely and unconditionally guarantee(s) prompt payment when due and at all times thereafter of any and all existing and future indebtedness and liabilities of every nature and kind, including all renewals, extensions and modifications thereof, now or hereafter owing from Debtor to Creditor, however and whenever created, arising, evidenced or acquired, and all interest accrued thereon (hereinafter collectively called the "Indebtedness"), in connection with Debtor's Purchase Order Number(s) P00000568, P00000521-B, P00000532, P00000557, and P00000558 to Steelcase, including all renewals, extensions, and modifications thereof, and the undersigned further agrees to reimburse Creditor for all costs, attorneys' fees and other expenses at any time expended or incurred by Creditor in the collection or attempted collection of the Indebtedness, or in the enforcement of this Guaranty.

2. The undersigned warrants and represents to Creditor that all financial statements and other information concerning the Debtor or the undersigned or both now or hereafter furnished to Creditor are and will be true and correct in all material respects; that the execution, delivery and performance of this Guaranty by the undersigned will not violate any law, rule, judgment, order, agreement or instrument binding upon the undersigned, nor require the approval of any public authority or other third party; and that this Guaranty constitutes the valid and binding obligation of the undersigned, enforceable in accordance with the terms hereof.

3. The undersigned waives notice of the acceptance of this Guaranty and of all extensions of credit hereunder. The undersigned further waives presentment, protest, notice, demand or action of any nature on any delinquency with respect to the Indebtedness, including the right to require Creditor to sue or otherwise to enforce payment thereof or to enforce any other security or other guaranty given therefor, unless creditor fails to perform in delivery of product and transfer of title. Delivery of goods to common carrier constitutes delivery to Debtor. The undersigned waives any and all claims and rights (whether arising in equity, at common law, or under a statute or contract) that arise from or relate to the undersigned's execution, delivery or performance of this Guaranty. This waiver

includes, but is not limited to, any right of reimbursement, subrogation, contribution, indemnity and exonerations, and any right to participate in any claim or remedy that Creditor at any time has against the Debtor or with respect to any security for the Indebtedness.

4. This Guaranty is made and shall continue as to any and all Indebtedness incurred or arising prior to receipt by Creditor of written notice of the termination hereof from the undersigned, including any and all extensions, renewals and modifications thereof made at any time thereafter. Any such notice shall be effective only as to the person giving the same, and this Guaranty shall continue in full force and effect as to any of the undersigned not giving such notice.

5. The liability of the undersigned hereunder is joint and several. The liability of the undersigned hereunder is independent of, and may be exercised regardless of, the existence of any other security or guaranty at any time in effect with respect to all or any part of the Indebtedness and regardless of any failure of Creditor to perfect or secure any priority of its rights with respect to any security at any time given, or agreed to be given, by Debtor or by the undersigned or any other guarantor or third party, for the Indebtedness or for the obligations of the undersigned hereunder.

6. Creditor is authorized from time to time, and without notice to the undersigned, to give and make such extensions, renewals, modifications, indulgences, settlements, and compromises as it may choose with respect to the Indebtedness, including the taking, releasing, surrender, exchange, settlement, compromise, waiver, subordination or modification of any security or guaranty, with or without consideration, on such terms or conditions as may be acceptable to Creditor, without in any manner affecting or impairing the liability of the undersigned hereunder. Creditor is authorized to release or modify the obligations of or surrender any security given by or waive any rights against any of the undersigned, without in any manner affecting or impairing the liability of the other undersigned.

7. Failure of Creditor to insist in any one or more instances upon strict performance of any one or more of the provisions of this Guaranty or to exercise any rights hereunder shall not be construed as a waiver of any such provision or provisions or the relinquishment of any such rights, but the same shall continue and remain in full force and effect.

8. This Guaranty embodies the entire agreement between the undersigned and Creditor with respect to the subject matter hereof. There are no promises, terms, conditions or obligations other than those contained herein. This Guaranty may not be modified except by writing signed by the party to be charged.

9. This Guaranty shall be construed according to the laws of the State of Michigan, in which state it shall be performed by the undersigned. The undersigned agrees that any action against the undersigned for the enforcement of this Guaranty may be brought by Creditor in any municipal, state or federal court in Kent County, Michigan, having jurisdiction of the subject matter, and the undersigned consents that any such court shall have personal jurisdiction over the undersigned with respect to any such action.

10. This Guaranty shall be binding upon the undersigned, administrators, legal representatives, successors and assigns, and each of them respectively, and shall inure to the benefit of Creditor, its successors and assigns.

11. The undersigned represents and warrants that they have entered into no other guaranties whatsoever, except as specifically set forth below:

The undersigned agrees that they will not enter into any other quaranties without the written consent of Creditor.

12. If any payment by (i) the Debtor or (ii) any of the undersigned to Creditor (a "Payment") is held to constitute a "preference" or the like under the Bankruptcy laws, or if for any other reason Creditor is required to refund any Payment or pay the amount thereof to any other party, such Payment shall not release any of the undersigned from any liability hereunder. Instead, the undersigned shall remain fully liable to Creditor for the amount of the Payment and shall pay the amount of any such Payment to Creditor upon demand. This Guaranty shall continue to be effective or shall be reinstated, as the case may be, to the extent of any such Payment, Payments, preference or disgorgement.

13. The Guarantor shall not be deemed a "creditor" of the Debtor with respect to the Indebtedness as said term "creditor" is defined in the U.S. Bankruptcy Code, as amended.

14. Whenever in this Guaranty words, including pronouns, are used in the masculine, they shall be read in the feminine or neuter whenever such a gender would apply, and vice versa, and words in this Guaranty that are singular shall be read as plural whenever the latter would so apply and vice versa. The word "undersigned" when used herein shall include each and every person executing this Guaranty, whether such persons are corporations, partnerships, natural persons or any other person of recognized legal capacity.

15. THE UNDERSIGNED ACKNOWLEDGES HAVING READ ALL OF THE PROVISIONS OF THIS GUARANTY.

Dated: 8-4, 1993

Witnesses:

Joe C. Matia

Joe C. Matia

Michael G. Harbin

Hope D. Harbin

as/W6/MJ072901

EXHIBIT A

Steelcase Financial Services Inc.  
901 - 44th Street S.E.  
Grand Rapids, Michigan 49508

Stow Davis Furniture Incorporated  
67742 County Road 23  
New Paris, Indiana 46553

Stow Davis Architectural Woodwork Incorporated  
850 Elkton Drive  
Colorado Springs, Colorado 80907

# EXHIBIT 8

1 A	continue in full force and effect as to any of the undersigned not giving such notice."	1 A	Of that letter? No, I do not.
2 Q	Have you ever provided written notice to terminate the guaranty?	2 Q	Do you know if Hope ever sent a termination letter?
3 A	Yes.	3 A	No, not that I'm aware of.
4 Q	Do you have any documentation of that?	4 Q	On either guaranty?
5 A	Eleven, twelve years later? No, I do not.	5 A	Not that I'm aware of.
6 Q	When was that written termination sent?	6 Q	This is your answer to our complaint.
7 A	After these P.O.'s were paid by -- to Steelcase.	7	(At 10:28 a.m., Exhibit 3 marked.)
8 Q	Do you remember who you sent it to?	8 BY MS. LACHMAN:	
9 A	I believe it was Marvis.	9 Q	Pretty far down, I think it might even be the last page or the second to last, you state your affirmative defenses. I think we talked about this before, but just to make sure we have it on the record, do you have any evidence to support any of these affirmative defenses?
10 Q	Did anybody else know about the correspondence?	10 A	If I'm not mistaken, I believe Bob showed me where Steelcase admitted that they had been paid on these P.O.'s is one of you all's answers. Am I looking at Page 7? Is that what we're talking about?
11 A	My secretary who typed it did.	11 Q	Yes.
12 Q	Who was that?	12 A	And the rest is -- I'd have to defer to my counsel to answer those -- your question on that.
13 A	I can't remember her name. The receptionist. It might have been Lynn Summer.	13 Q	Did you give personal guarantees to other distributors?
14 Q	Because she's the one who you mentioned --	14 A	No.
15 A	Witnessed it.	15 Q	Banks?
16 Q	-- witnessed it, and she was your secretary at that time?	16 A	One.
17 A	Yes.	17	
18 Q	On the second one, this 8-4-93, that has a different name as a witness.	18	
19 A	Yes.	19	
20 Q	Who's that person?	20	

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1 A	He was with the installation company that was installing the furniture that these specific P.O.'s to this guaranty relate to.	1	MS. LACHMAN: Anybody need a break?
2 Q	You think that Lynn Summer was your secretary at the time that you signed this guaranty?	2	THE WITNESS: We can take one if you want.
3 A	I believe she was, but I can't be -- I'm not a hundred percent sure.	3	MS. LACHMAN: Yeah, let's do it. We're going to change gears, --
4 Q	Did you send written termination of this guaranty?	4	THE WITNESS: Okay.
5 A	I did.	5	MS. LACHMAN: -- so maybe this is a good place to stop. So we'll just be off the record.
6 Q	And who would have known about that?	6	THE WITNESS: Okay.
7 A	Myself because I signed the letter, and then if Lynn was the receptionist/secretary at the time, which I believe she was, she would have typed it for me.	7	(From 10:30 a.m. to 10:36 a.m., deposition in recess.)
8 Q	Have you ever talked to anybody about sending written termination?	8 BY MS. LACHMAN:	
9 A	Explain.	9	
10 Q	Did you talk to Hope about sending written termination?	10	
11 A	I might have. I don't recall.	11	
12 Q	Did you talk to Marvis James on the telephone about it prior to sending it?	12 Q	I'm going to shift topics here. You are aware that Steelcase has a judgment against Harbin's, Inc.?
13 A	I believe I might have spoken to Marvis and told him that it was coming, or, you know, I mailed it with the last check for the last P.O. But again, you're talking so many years ago.	13	
14 Q	And you don't have any records of that?	14 A	I'm aware that they have applied for a default judgment, but I don't know if I've found out whether it was issued.
15 A		15	
16 Q		16	
17 A		17 Q	And the amount of the judgment is \$385,275.79 with interest accruing after November 23, 2004?
18 Q		18	
19 A		19 A	(witness shrugs)
20 Q		20 Q	Well --
21 A		21	MR. SMITH: You have to give a verbal response.
22 Q		22	
23 BY MS. LACHMAN:		23	
24 Q		24 Q	Well, regarding that I'd like to talk to you a little bit about corporate assets, where they've gone.
25		25	

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1	Harbin's, Inc.; is that right?	1	Q And you've already testified that you sent out a
2	A That's correct.	2	termination letter to Steelcase that you believed that
3	Q It was their income?	3	those P.O.'s were all paid up; is that right?
4	A Correct.	4	A That's correct. I know I sent that letter. (coughing)
5	Q Now, at some point in time you, I think -- and I can't	5	Excuse me.
6	remember the exact date, but it may have been 2003 --	6	Q I show you what's been marked as Exhibit Number 1. Was
7	you made a personal -- several personal loans to the	7	it your understanding that the debt that you were
8	corporation and paid yourself back; right?	8	guarantying them was limited to --
9	A I don't think I was ever paid back a hundred percent,	9	A (coughing)
10	but, yes, I did make --	10	MR. SMITH: Want to take a break?
11	Q Okay.	11	THE WITNESS: Just let her get me some water.
12	A -- many loans to the corporation.	12	BY MR. SMITH:
13	Q And were those loans that you made for the purpose of	13	Q -- was limited to certain purchase orders?
14	keeping the business open and paying your business's	14	A Yes. It was emphatically explained to me numerous
15	debts?	15	times that this was limited -- this guaranty was
16	A That's correct.	16	limited strictly to these P.O.'s, and they even went so
17	Q So when money did come in, you paid yourself back?	17	far as to tell me that the language that -- a specific
18	A I tried to.	18	override to the general language. They had been --
19	Q So it was like a line of credit you would have gotten	19	"general language" meaning paragraph number 4.
20	from a bank, except you were the bank?	20	But having worked at a commercial bank, I
21	A I was the bank.	21	knew to send them a termination letter and I did. And
22	Q These profit-sharing -- or what you thought might have	22	it clearly states that this purchase -- or this
23	been stubs from payment to a profit-sharing account,	23	guaranty is limited to these purchase orders.
24	and that showed a payment to FFBO Stern Brothers, --	24	Q And when you say "these purchase orders," referring to
25	A (coughing) Excuse me.	25	Exhibit Number 1, are you referring to the purchase

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1	I'm sorry. -- FFBO Harbins-Stern Brothers, did that	1	order numbers in the first paragraph?
2	profit-sharing -- was that an actual profit-sharing	2	A I am.
3	account or was that a 401(k) contribution?	3	Q And did those -- each of those purchase orders have a
4	A That would have been the monies that was withheld from	4	particular amount of money associated with them?
5	the employees.	5	A They did.
6	Q 401(k)?	6	Q And they were identified to a particular order that you
7	A 401(k). Their portion of the contribution. In the	7	made from Steelcase?
8	last three years, we never made a matching	8	A Excuse me. They are -- or were.
9	contribution.	9	Q When I say "you," I mean Harbin's, Inc.
10	Q Did you change the name on the 401(k) account?	10	A Harbin's, Inc. Correct.
11	A We did.	11	Q And so those purchase orders -- and this was dated
12	Q At what point in time did you change it back to	12	1993; correct?
13	Harbin's, Inc.? Do you know?	13	A That's correct.
14	A I don't.	14	Q And were all of those purchase orders in Exhibit Number
15	Q But it could be that that -- those checks that might	15	1 paid by Harbin's, Inc.?
16	have gone to a profit -- or a 401(k) account, you	16	A They were.
17	simply retained the name profit -- or Harbins-Stern	17	Q And you never heard Steelcase -- Steelcase never
18	Brothers?	18	complained to you that these purchase orders haven't
19	A (witness nods)	19	been paid in full, did they?
20	Q Is that a yes?	20	A Never.
21	A That's correct. Yes.	21	Q I'll show you again Exhibit Number 1 and refer you to
22	Q Now, you testified that you don't have any evidence to	22	paragraph number 4. The word "indebtedness" in the
23	support affirmative defenses. You do understand that	23	second line is with a capital "I". What indebtedness
24	testimony is evidence; correct?	24	did you understand that to refer to?
25	A Correct.	25	A Just those specific purchase orders.

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# EXHIBIT 9

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

STEELCASE, INC. a Michigan  
corporation,

Plaintiff,

v

Case No.: 1:04cv0026  
Hon. Robert Holmes Bell  
Chief, U. S. District Judge

HARBIN'S INC., an Alabama  
corporation, MICHAEL G. HARBIN  
and HOPE D. HARBIN PATTERSON (now  
HOPE DUNCAN PATTERSON),

Defendants.

MILLER, JOHNSON, SNELL &  
CUMMISKEY, P. L. C.  
Jon G. March (P17065)  
Attorneys for Plaintiff  
250 Monroe Avenue, N. W. - Ste 800  
P. O. Box 306  
Grand Rapids, MI 49501-0306  
(616) 831-1700

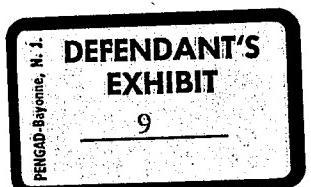
HOPE D. HARBIN - PATTERSON (now  
HOPE DUNCAN PATTERSON)  
Defendant in Pro Per  
4514 Chamblee Dunwoody Rd., 238  
Atlanta, GA 30338-6202

SILVERMAN, SMITH, BINGEN & RICE, P.C.  
Robert W. Smith (P31192)  
Attorneys for Defendant Michael G. Harbin  
151 S. Rose Street  
707 Comerica Building  
Kalamazoo, MI 49007  
(269) 381-2090

AFFIDAVIT OF MICHAEL G. HARBIN, JR. IN  
SUPPORT OF MOTION FOR SUMMARY JUDGMENT,  
OR ALTERNATIVELY, TRANSFER OF VENUE

Defendant Michael G. Harbin, Jr. deposes and says as follows:

1. I have been the President of Harbin's, Inc., an Alabama corporation, since March 1990, and I have been its Chief Executive Officer from March 1990 until April 2004. I am a Defendant in the above captioned matter.



2. If called upon to testify I can testify truthfully and accurately as to all those matters contained herein.

3. In March of 1990, I acquired controlling interest in Harbin's, Inc., an Alabama corporation engaged in business as Harbin's Office Supply & Furniture.

4. Harbin's, Inc. had been a Steelcase dealer since long before I acquired controlling interest in Harbin's, Inc.

5. When I obtained controlling interest in Harbin's, Inc., employees of Plaintiff Steelcase, Inc. ("Steelcase") asked me to sign a continuing personal guaranty of the Harbin's, Inc. account. I refused to do so.

6. In spite of my refusal to sign a continuing personal guaranty in 1990, Steelcase continued doing business with Harbin's, Inc. after I acquired controlling interest in it.

7. In 1993, Harbin's, Inc. placed a large order with Steelcase for materials ordered by ALFA Insurance Company. At that time, Steelcase renewed its request for me to sign a continuing personal guaranty. I again refused. Steelcase then advised me that it would not ship the large order without a personal guaranty. I advised Steelcase that ALFA was looking at other manufacturers anyway and that I would place ALFA's business elsewhere. Shortly thereafter, the Steelcase credit manager called me back to ask if I would sign a personal guaranty **limited to the ALFA project only**. I agreed and the Guaranty attached to Steelcase's Complaint in this matter as Exhibit B, as prepared by Steelcase, was signed after several changes were made to it. My ex-wife signed it as well.

8. When I subsequently placed a second large order on behalf of Harbin's, Inc. for ALFA Insurance Company, Steelcase asked me to sign another personal guaranty limited to the second large order. I agreed. Steelcase prepared the Guaranty which is attached

to its Complaint and marked as Exhibit C. I signed that as well as my ex-wife. That guaranty was **limited to the second ALFA project only.**

9. Upon completion of both ALFA projects, Harbin's Inc. paid in full all of the invoices corresponding to the purchase orders identified in the two limited guaranty agreements and I confirmed, in a separate letter to Steelcase, that the two limited guaranty agreements were terminated. I did that only to clarify that the purchase orders referenced in these two guaranties had been paid in full.

10. In June of 1999, Harbin's, Inc., in conjunction with Stern Brothers, Inc. formed a new entity known as Harbin's-Stern Brothers, LLC. Stern Brothers was in the used office furniture sales and furniture repair business. Harbin's, Inc. owned 51% of the membership interest of the new LLC. Stern Brothers, Inc. owned the other 49%. From approximately July of 1999 through May 31, 2002, Harbin's, Inc. only conducted business as a member of Harbin's-Stern Brothers, LLC. May 31, 2002 is the last day that Harbin's-Stern Brothers, LLC did business.

11. On June 1, 2002, Harbin's, Inc. began to conduct business on its own just as it had before the formation of Harbin's-Stern Brothers, LLC.

12. Harbin's, Inc. did not keep a separate bank account, after the formation of Harbin's-Stern Brothers, LLC. Accordingly, income attributable to Harbin's, Inc. received after Harbin's-Stern Brothers, LLC began to conduct business, was deposited into my personal checking account as the sole shareholder of Harbin's, Inc. Income was accounted for as income of Harbin's, Inc. in the federal and state tax returns of Harbin's, Inc.

13. With regard to the allegations in the Complaint that I intermingled personal assets with corporate assets, in all such instances it was done for the benefit of the corporation, not me personally. Those instances were as follows:

- a. Harbin's, Inc. issued a non-sufficient funds check to one of its vendors, SP Richards. That vendor then insisted on a certified check payment upon delivery. The Harbin's, Inc. corporate account charged a \$10 processing fee for each certified check. Harbin's, Inc. had a delivery from SP Richards almost every day. My personal bank account had free certified checking privileges. In order to save the \$10 processing fee I would have Harbin's, Inc. write me a check for the amount of the delivery from SP Richards, I would go to my personal bank and deposit that check into my personal account. I would then have a certified check issued on my personal account for the same amount made payable to SP Richards. I would then exchange that certified check for the goods delivered. I did this for a period of about two weeks in September of 2003. Finally I told SP Richards if it was going to continue to insist upon certified funds, Harbin's, Inc. would take its business elsewhere. SP Richards then relented.
- b. In 2001, I used my personal account to temporarily place Harbin's-Stern Brothers, LLC money that was earmarked for a large payment to Steelcase. I was concerned that if it was left in the Harbin's, Inc. general account, it might be spent for something else and I wanted it used to pay Steelcase in full for a large order. Steelcase was paid in full for that order out of my personal checking account from those same earmarked funds.
- c. There were a number of instances when Harbin's, Inc. did not have sufficient funds in its payroll account to pay all the employees and myself. On those occasions, I told the payroll company that we used, Paymaxx, not to issue me a paycheck. On those occasions, I was paid later when the corporation had money to pay me.
- d. During the last two years that Harbin's, Inc. was in operation, I used my own personal funds to make loans to Harbin's, Inc. When Harbin's, Inc. had the money available to pay those loans back, some of it was paid back. I do not believe I was ever paid in full for all of the personal loans I made to Harbin's, Inc.

14. My total income from Harbin's, Inc. in 2004 (January 1<sup>st</sup> to April 40<sup>th</sup>) was \$4,286.35 (Exhibit A to this Affidavit).

15. My total income from Harbin's, Inc. in 2003 was \$55,748.00 (Exhibit B to this Affidavit).

16. As a result of the allegations in the Second Amended Complaint now alleging that the corporate veil of Harbin's, Inc. should be pierced and that I should be personally liable, I will need to call some, or all, of the following witnesses to testify in defense of the allegations in the Second Amended Complaint regarding the piercing of the corporate veil claim:

- a. Janie Gililand: She is the attorney that I consulted during the last approximately six months that Harbin's, Inc. was going out of business. She has knowledge of the corporation's business and financial operations and the maintenance of the corporate form by Harbin's, Inc. She is located in Montgomery, Alabama.
- b. Tommy Sisson: He is the CPA that Harbin's, Inc. used to prepare corporate tax returns. He also prepared my personal tax returns. He has knowledge of financial and accounting aspects of Harbin's, Inc. He is located in Birmingham, Alabama.
- c. Charlotte Thorpe: She was the bookkeeper for Harbin's, Inc. She has intimate knowledge of the accounting and financial operations of Harbin's, Inc. She is located in Montgomery, Alabama.
- d. Gloria Blackwell: She was the previous bookkeeper for Harbin's, Inc. and she also has knowledge of the accounting and financial records and operations of Harbin's, Inc. She is located in Montgomery, Alabama.
- e. Courtney Harbin: She worked in accounts receivable, acted as my assistant, and also as the assistant bookkeeper. She has knowledge of the accounting and financial operations of Harbin's, Inc. She is located in Santa Rosa Beach, Florida.
- f. Keeper of the records of Amsouth Bank: I did all of my personal checking at Amsouth Bank in Montgomery, Alabama. My personal banking records would be important evidence in defending the Steelcase claims and I would think those records, and the keeper of the records, are located in Montgomery, Alabama.
- g. Ray Petty: He works for Southtrust Bank in Montgomery, Alabama. Southtrust Bank had the mortgage on the property where Harbin's, Inc. did

- business. I negotiated a deed in lieu of foreclosure with Mr. Petty and Southtrust Bank took over that property the day Harbin's closed its doors. He can testify regarding the corporate records of Harbin's, Inc. which were left behind. He also has knowledge of the accounting and financial operations of Harbin's, Inc.
- h. Keeper of the records of Southtrust Bank: I believe the records of Southtrust Bank as they pertain to the deed in lieu of foreclosure are located in Montgomery, Alabama. Moreover, Harbin's, Inc. used Southtrust Bank as its banking institution prior to doing business with Colonial Bank. Some of the records of Southtrust Bank may be pertinent with respect to my defense of the piercing claim.
- i. John Cooper: He is an employee of Colonial Bank of Montgomery, Alabama. Colonial Bank had a secured position in all of the assets of Harbin's, Inc. The going out of business sale by Harbin's, Inc. was conducted under the auspices of John Cooper and Colonial Bank. John Cooper is located in Montgomery, Alabama. He has knowledge of the accounting and financial operations of Harbin's, Inc. and the going out of business sale. He also has knowledge of my personal finances and the absence of any claims against me for misusing corporate funds inasmuch as I signed a personal guaranty with Colonial Bank.
- j. Jay Wolfe: He is a minister at First Baptist of Montgomery, Alabama. I negotiated with him regarding the sale of the building in which Harbin's, Inc. was located in an attempt to sell that building directly to the First Baptist Church. We did not negotiate a direct sale, however, the First Baptist Church bought the building from Southtrust Bank. As the purchaser of the building, he would have knowledge of the whereabouts of the corporate records of Harbin's, Inc. that were left behind.
- k. John Frisk: He is an employee of Partners in Business, Inc. I negotiated an agreement with him whereby Partners in Business, Inc. purchased the book of business of Harbin's, Inc. He is located in Orlando, Florida. He would have knowledge regarding the disposition of some of the assets of Harbin's, Inc.
- l. Mark Campbell: He is an employee of ALFA Insurance Company located in Montgomery, Alabama. ALFA was the largest customer of Harbin's, Inc. He can testify regarding various transactions between Harbin's, Inc. and ALFA Insurance Company which may become issues in the piercing claim.
- m. Employees of Paymaxx: Paymaxx was the payroll company used by Harbin's, Inc. It is located in Tennessee, but has a connection with Tommy Sisson, Harbin's, Inc.'s CPA. It may be necessary to call on employees of Paymaxx to testify regarding several of the transactions mentioned above.

- n. Sarah Spear: She is the Montgomery County Revenue Commissioner. She can testify regarding the method by which Harbin's, Inc. paid its taxes after it went out of business.
  - o. Michael Behrman: He is located in Montgomery, Alabama. He is my former business partner. He will have information regarding the formation and disposition of Harbin's-Stern Brother, LLC and its assets.
  - p. Tom Methvin: He is an attorney in Montgomery, Alabama. His law firm was a large customer of Harbin's, Inc. He is also a personal friend and former business partner. He may be used as a witness regarding proper utilization of Harbin's, Inc. as a corporate form.
  - q. Nick Parnell: He was the attorney who represented Colonial Bank during the going out of business sale, and the litigation against Harbin's, Inc. and me personally by Colonial Bank that followed. He is located in Montgomery, Alabama. He has knowledge of the accounting and financial operations of Harbin's, Inc., my personal financial affairs, and the disposition of assets of Harbin's, Inc.
17. I can think of a number of other people associated with Harbin's, Inc. who may be considered as witnesses with respect to the piercing claim, or have information that may be pertinent to defending it. I can think of no one in Michigan who would have such information.

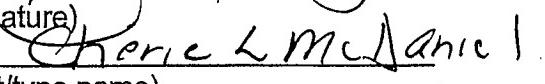
18. Further your affiant sayeth not.

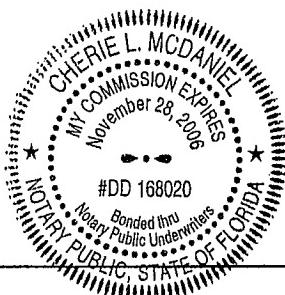
Dated: April 27, 2005

/s/   
Michael G. Harbin, Jr.

STATE OF FLORIDA      )  
                        )  
WALTON COUNTY      )

SUBSCRIBED and SWORN to before me, a Notary Public, on this 27 day of April, 2005,  
by Michael G. Harbin.

/s/   
(signature)   
(print/type name)  
Acting in Walton County, Florida  
My Commission Expires: 11/28/2006



# EXHIBIT 10

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

STEELCASE INC., a Michigan  
corporation,

Plaintiff,

Case No. 1:04CV0026

v

Honorable Robert Holmes Bell  
Chief, U.S. District Judge

HARBIN'S INC., an Alabama  
corporation, MICHAEL G. HARBIN,  
and HOPE D. HARBIN PATTERSON,

Defendants.

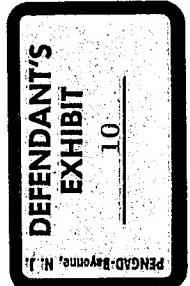
PLAINTIFF STEELCASE INC.'S RESPONSE TO DEFENDANT MICHAEL G.  
HARBIN'S REQUEST TO ADMIT FACTS DIRECTED TO PLAINTIFF  
STEELCASE INC.

Plaintiff, Steelcase Inc., by its attorneys, Miller, Johnson, Snell & Cummiskey, P.L.C., answers Defendant Michael G. Harbin's Request to Admit Facts Directed to Plaintiff Steelcase Inc., filed February 3, 2005 as follows.

REQUESTS TO ADMIT

1. Admit that Exhibit B to Plaintiffs Complaint was a personal Guaranty, dated June 6, 1993, by Defendants Michael G. Harbin and Hope D. Harbin-Patterson which was limited solely to those Purchase Orders (P00000405, P00000406, P00000413, P00000422, P00000433) identified therein.

**ANSWER:** Plaintiff admits that Exhibit B was and is a personal guaranty dated June 6, 1993 by Michael G. Harbin and Hope D. Harbin (now Patterson). Plaintiff denies that the Guaranty was limited solely to the Purchase Orders listed because it is untrue. Paragraph 4 of the Guaranty expressly makes it applicable to all indebtedness incurred or arising prior to



receipt by Steelcase of a written termination. No written termination has ever been received by Steelcase.

2. Admit that the Purchase Orders identified in Request to Admit 1 were paid in full prior to the year 2000.

**ANSWER:** Admitted.

3. Admit that Exhibit C to Plaintiff's Complaint was a personal Guaranty, dated August 4, 1993, by Defendants Michael G. Harbin and Hope D. Harbin-Patterson which was limited solely to those Purchase Orders (P00000568, P00000521 P00000532, P00000557, P00000558) identified therein.

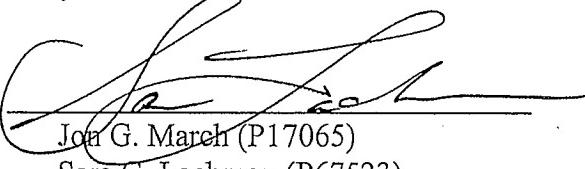
**ANSWER:** Plaintiff admits that Exhibit B was and is a personal guaranty dated August 4, 1993 by Michael G. Harbin and Hope D. Harbin (now Patterson). Plaintiff denies that the Guaranty was limited solely to the Purchase Orders listed because it is untrue. Paragraph 4 of the Guaranty expressly makes it applicable to all indebtedness incurred or arising prior to receipt by Steelcase of a written termination. No written termination has ever been received by Steelcase.

4. Admit that the Purchase Orders identified in Request to Admit 3 were paid in full prior to the year 2000.

**ANSWER:** Admitted.

MILLER, JOHNSON, SNELL & CUMMISKEY, P.L.C  
Attorneys for Plaintiff Steelcase Inc.

By

  
Jon G. March (P17065)  
Sara G. Lachman (P67523)

Dated: February 23, 2005

# EXHIBIT 11

<p style="text-align: right;">Page 35</p> <p>1 BY MR. SMITH:</p> <p>2 Q Paragraph number 12, this language that I've referred to      3 indicates that the indebtedness lasts -- survives for one      4 year; correct?</p> <p>5 A It says the guaranty shall survive final payment in full.</p> <p>6 Q For one year?</p> <p>7 A For a period of one year.</p> <p>8 Q With a contingency; right?</p> <p>9 A Yes; correct.</p> <p>10 Q Paragraph number 4 says it lasts, basically, it continues      11 into infinity without a termination statement; right?</p> <p>12 MR. MARCH: Same objection. You may answer.</p> <p>13 THE WITNESS: Paragraph 4 appears to indicate that.</p> <p>14 BY MR. SMITH:</p> <p>15 Q Wouldn't you agree with me that those, read together, this      16 document is ambiguous as to when it's supposed to end?</p> <p>17 A I can't render an opinion on that. As I stated before --</p> <p>18 Q I'm not asking for a legal opinion, I'm just asking for a lay      19 opinion.</p> <p>20 A I can't say that conclusively.</p> <p>21 Q You don't want to answer that question?</p> <p>22 A I can't render an assessment of that based upon the fact that      23 you're looking at two different parts of the document, and      24 the document language that surrounds the paragraph, there may      25 be some other language that supports that. I can't say</p>	<p style="text-align: right;">Page 37</p> <p>1 A I would agree with that.</p> <p>2 Q And based on your understanding of Exhibit Number 9, is this      3 the document that was finally, basically, the same document      4 as Exhibit Number 8 with some changes to it, but this is a      5 document that was finally negotiated with Michael and Hope      6 Harbin; is that right?</p> <p>7 A That's correct.</p> <p>8 Q And if you look at paragraph number 12, would it be fair to      9 say that the language that Mr. Harbin wanted taken out has      10 been taken out?</p> <p>11 A Yes. I would agree with that.</p> <p>12 Q Do you have an independent recollection of whether that was      13 your decision or somebody else's decision?</p> <p>14 A I don't recall whose decision it was.</p> <p>15 Q Typically, when you're negotiating documents with one of the      16 dealers and the dealer says I want to change this paragraph      17 or that paragraph, is that going to be, typically, your      18 decision, or somebody else's?</p> <p>19 A It could be someone else's decision.</p> <p>20 Q I'm sorry?</p> <p>21 A It could be someone else's decision.</p> <p>22 Q Is that your boss, or the Legal Department, or somebody else?</p> <p>23 A Generally, it's a combination of my boss and our Legal      24 Department's decision.</p> <p>25 Q As I understand it, you don't have any specific recollection</p>
<p style="text-align: right;">Page 36</p> <p>1 conclusively.</p> <p>2 Q Take a look at paragraph number 1. Read paragraph 1 to      3 yourself.</p> <p>4 A Okay.</p> <p>5 Q What is the indebtedness, just based on your lay      6 understanding, that Mr. Harbin was guaranteeing when you      7 asked him to sign this agreement?</p> <p>8 MR. MARCH: Your question is pertaining to      9 paragraph 1?</p> <p>10 MR. SMITH: Yes.</p> <p>11 THE WITNESS: My understanding of that is it's      12 saying that the guarantor is guaranteeing the payment      13 for the purchase orders as referenced when due and at      14 all times thereafter of purchase orders.</p> <p>15 BY MR. SMITH:</p> <p>16 Q Just those purchase orders; is that right?</p> <p>17 A That's my understanding, yes.</p> <p>18 (Exhibit 9 marked for identification.)</p> <p>19 BY MR. SMITH:</p> <p>20 Q I show you what's been marked as Deposition Exhibit Number 9      21 and ask you if you can identify that.</p> <p>22 A It appears to be the same type of document as Exhibit 8.</p> <p>23 Q Compare it to number 8 and take a look and see if you can      24 determine whether Exhibit Number 9 is a fully executed      25 document, as opposed to a non-executed document.</p>	<p style="text-align: right;">Page 38</p> <p>1 of having deleted that particular paragraph. What would be      2 the process under which that would be accomplished?</p> <p>3 A Well, you know, I can't recall specifically at that      4 particular time, but in today's environment we would have      5 referred, or sent the document with the changes requested to      6 our Legal Department to review, and would thus receive back      7 their opinion as to what could be changed and what could not      8 be changed.</p> <p>9 Q You don't know when that process was put into place, do you?</p> <p>10 A I'm not saying that it wasn't in place at that time. It      11 could have been the process that was used at that time.</p> <p>12 Q Would there be an exchange of correspondence between the      13 Legal Department and the Credit Department which would      14 indicate I need some help with this particular document, the      15 dealer wants it changed, and the Legal Department responds in      16 some fashion?</p> <p>17 A That's the typical way, is that we would either send a      18 document to the Legal Department, they would mark it      19 accordingly, or send us an e-mail one way or the other to      20 give their assessment of the document, what changes they were      21 recommending.</p> <p>22 Q I didn't see anything in the files that Steelcase has      23 provided in this case which indicated any sort of interchange      24 between the Credit Department and the Legal Department. Do      25 you know why that is?</p>



# EXHIBIT 12

Page 39	Page 41
1 A I really don't know why that is. That's not to say they 2 weren't, but I can't say specifically why you weren't able to 3 have -- why there were not such copies of correspondence. 4 Q Would you think that there should have been some documents 5 that would indicate correspondence between yourself and the 6 Legal Department regarding this particular document? 7 A I would think that there would have been some correspondence. 8 Q Would that have been, in 1993, in the form of a memorandum or 9 an e-mail? 10 A It could have been either. 11 Q Do you have any knowledge as to how Steelcase keeps credit 12 file records? In other words, do you have a credit file for 13 each dealership? 14 A Yes, we do. 15 Q Do you keep everything in one file with regard to that 16 dealership and the credit for that dealership, or do you 17 split it up into correspondence and into some other -- 18 A Usually the credit -- well, the credit files are separated by 19 sections, where we have a legal documents section, we have a 20 section for correspondence, we have a section for financial 21 statements. 22 Q So it's three sections; correspondence, legal documents and 23 financial statements? 24 A Basically, yes. 25 Q Do you make hard copies of all your e-mails?	1 exchanges. 2 MR. MARCH: Same objection. 3 BY MR. SMITH: 4 Q Back in 1993, which is what we're talking about now. 5 A You know, we have different systems today than we had then. 6 I can't recall in '93 if we had the capability to do that or 7 not. 8 Q Probably changed all the computers by this time; is that 9 right? 10 A I'm quite sure we -- well, obviously, we do have different 11 equipment today than we had then. 12 (Exhibit 10 marked for identification.) 13 Q These got a little out of place. 14 (Exhibit 11 marked for identification.) 15 Q Mr. James, I've handed you a copy of Exhibit Number 11, and 16 briefly, would you review that and compare it with Exhibit 17 Number 9, and then describe it for me as best you can. 18 A From all indications, it's the same document as Exhibit 19 Number 9, with the exception of the purchase order numbers 20 are different. 21 Q Do you have any independent recollection of this particular 22 exhibit? 23 A No, not at this time, other than just seeing it here. 24 Q Exhibit Number 9, would it be fair to say that that was 25 executed by the Harbins on June 10, 1993?
Page 40	Page 42
1 A Well, not all of them. It depends upon the importance of the 2 e-mail as to whether or not we would print a copy of it or 3 not. 4 Q So that's just sort of done randomly based on somebody's 5 decision that this is important, I'm going to make a hard 6 copy of it? 7 A Yes. 8 Q And if somebody just didn't either think it was important or 9 just didn't get around to making a hard copy of it, the file 10 wouldn't reflect the e-mail exchange; is that right? 11 A I guess I wouldn't characterize it as being something that 12 someone would think not important, you know. It's something 13 that could have gotten misfiled. There could be other 14 reasons why there's no record of that. 15 Q Do you know if there is e-mail information, whether you keep 16 a record of the e-mail exchanges, an electronic record that 17 is hard copied? 18 MR. MARCH: Object for lack of foundation. You may 19 answer. 20 THE WITNESS: Are you asking me, specifically? 21 BY MR. SMITH: 22 Q Yeah. 23 A Just in general, or pertaining to this situation? 24 Q Pertaining to this, or any situation in the Credit 25 Department, if you keep electronic records of e-mail	1 A Exhibit Number? I'm sorry. 2 Q Exhibit Number 9. 3 A Number 9? It shows executed June 10, 1993. 4 Q And Exhibit Number 11 was executed on August 4, 1993; is that 5 correct? 6 A That's correct. 7 Q And Exhibit Number 11 references a completely different set 8 of purchase orders than Exhibit Number 9; is that right? 9 A That's correct. 10 Q As you sit here today, can you recall why this second 11 guaranty was requested? 12 A It would have been a case where these were different 13 shipments that we're making at a different point in time. 14 Q And is it correct that you had Exhibit Number 9 executed 15 because you were concerned about getting paid and you wanted 16 to make sure that you had a personal guaranty for those 17 specific purchase orders? 18 A Yes. 19 Q And would the same be true with Exhibit Number 11? 20 A The same would be true. 21 (Exhibit 12 marked for identification.) 22 Q I show you what's been marked as Exhibit Number 12 and ask 23 you if you could identify that. 24 A This is an individual guaranty. 25 Q And what's the date at the top of that document?
	<p style="text-align: right;">DEFENDANT'S EXHIBIT 12</p>

# EXHIBIT 13

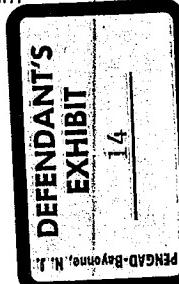
Page 47	Page 49
1 A I don't recall a specific conversation concerning that, no. 2 Q Do you recall any general, just generally, do you recall any 3 conversation with Mr. Harbin where that issue was raised? 4 A I again can't recall any specific conversation with Michael 5 Harbin about that. 6 Q Without dealing in specifics, are you aware that he was 7 making that complaint? 8 A I'm aware that was a concern of his, yes. 9 Q How did you become aware of that? 10 A I believe it might have been, you know, from maybe a market 11 manager, you know, at the time. Issues of pricing generally 12 were not directed to the Credit Department because we had 13 nothing to do with the pricing. 14 Q Well, I understand that, but I'm sure that you heard those 15 complaints from dealers, didn't you; pricing complaints? 16 MR. MARCH: Object to the form of the question. 17 This is way too broad. 18 THE WITNESS: Yeah, I can't specifically recall any 19 particular conversations like that. 20 BY MR. SMITH: 21 Q So that never entered into any of your conversations with any 22 dealers, complaints about pricing? 23 A I can't say if it did or didn't, you know. It very well 24 could have, but I can't sit here and say specifically yes, I 25 recall this incident or that incident.	1 Q The recommendation -- 2 A To management. 3 Q -- goes where? 4 A It would go to my immediate boss. 5 Q Now if he makes a decision we have to do something, we've got 6 to do something more drastic about this account, does he go 7 to the Legal Department then? 8 A Generally speaking, yes, he would certainly get the Legal 9 Department involved. 10 Q Now is it ever your place to notify dealers that if they 11 don't act within a certain period of time, you're going to 12 have to file a lawsuit? 13 A I would not communicate that to the dealer, no. 14 Q At this time, November 7, 2002, when you sent this letter, 15 Steelcase was not secured; correct? 16 MR. MARCH: Just a moment. I object to the form of 17 the question. 18 BY MR. SMITH: 19 Q You can go ahead and answer the question. 20 A What type of security are you referring to? 21 Q Any security. 22 A We did not have a security interest at this time, no. 23 Q Was it your understanding in November of 2002 that Mr. Harbin 24 was personally responsible on a personal guaranty? 25 A My understanding at this time was that he was not.
Page 48	Page 50
1 Q What would you do with those complaints if a dealer made it 2 to you? Who would you pass it along to? 3 A We would generally probably pass it on, if it was material, 4 to the market manager, because that was their area they dealt 5 with. We didn't deal with that. 6 (Exhibit 13 marked for identification.) 7 Q I show you what's been marked as Deposition Exhibit Number 13 8 and ask if you can identify that. 9 A Okay. 10 Q That's a letter from you to Michael Harbin dated November 7, 11 2002; is that accurate? 12 A That is correct. 13 Q And you're concerned about Harbin's, Inc. owing Steelcase 14 over \$400,000 dollars? 15 A Yes. 16 Q It looks like over \$30,000 dollars is 90 days past due; is 17 that accurate? 18 A That's accurate. 19 Q And if you were to compare this to other dealers, would you 20 characterize this as a seriously delinquent account? 21 A Yes, I would. 22 Q And at some point you have to reach a decision what you're 23 going to do about collecting the account; right? I mean, 24 that's your decision as a credit manager; is that right? 25 A Yes. We would at some point make a recommendation.	1 Q And as I understand your testimony, it wouldn't have been 2 your place, anyway, to remind Mr. Harbin that he had a 3 personal guaranty if you thought he had one; is that accurate 4 or not? 5 A Could you -- I'm not quite understanding your question. 6 Q Well, one of the things -- you're trying to get an account 7 paid, and you testified that you wouldn't threaten a lawsuit, 8 but would it ever be your place to remind a dealer that if he 9 doesn't pay, there's some personal liability involved if 10 perhaps the dealer had a personal guaranty? 11 A If we had a personal guaranty on an account and the debt was 12 covered under a personal guaranty, yes, I could have 13 communicated that information to the dealer, yes. 14 Q You didn't do that in this case? 15 A No, I didn't. 16 (Exhibit 14 marked for identification.) 17 Q I show you what's been marked as Exhibit Number 14. Take a 18 moment to read that, if you would. 19 A Okay. 20 Q This is an e-mail from you to Steven Waugh; is that correct? 21 A That's right. 22 Q At the top of the page anyway, and it's dated November 8th of 23 2002; is that right? 24 A That's correct. 25 Q Who was Steven Waugh?

DEFENDANT'S EXHIBIT

13

# EXHIBIT 14

Page 51	Page 53
1 A He's my manager. He's the Director of Corporate Credit. 2 Q He was your boss at that time? 3 A That's right. 4 Q And who is Rich Cocos? 5 A Rich Cocos is the Dealer Transition -- was the Dealer 6 Transition Manager for that region at the time. 7 Q You were transitioning that dealership, or that region over 8 to Rich Cocos? 9 A No, that was just his title. It was pretty much the same as 10 the Dealer Alliance that I mentioned earlier. They changed 11 the title to that Dealer Transition Manager. 12 (Exhibit 15 marked for identification.) 13 Q I show you what's been marked as Deposition Exhibit Number 14 15. Can you identify that? 15 A Okay. 16 Q This is a letter from your boss, basically, on November 27, 17 2002 to Michael Harbin; is that correct? 18 A Yes. 19 Q And it appears that Steven Waugh had taken over the account, 20 or taken over, been involved more personally in this 21 particular account at that point; is that accurate? 22 A Well, he had gotten involved with the account, yes. 23 Q Because it was delinquent? 24 A Yes. 25 Q At what point, as a credit manager, do you start asking, or	1 security agreements; is that right? 2 A Yes, that's right. 3 Q At some point did you stop using this record? 4 A Yes. 5 Q When was that? 6 A I don't have a photographic memory. I can only think it 7 would have been somewhere between 2001 and 2002. 8 Q Did you keep them in the file? 9 A It was kept in a credit file, in the credit file, yes. 10 Q I mean, you stopped using the documents, or you stopped 11 adding it to the file, you didn't go through all the files 12 and purge them, I take it? 13 MR. MARCH: You're talking about Exhibit 16? 14 MR. SMITH: Right. 15 MR. MARCH: Or, more accurately, the form? 16 MR. SMITH: I'm talking about the form, actually. 17 THE WITNESS: This form? 18 BY MR. SMITH: 19 Q Yeah. 20 A Yeah, it wasn't a high priority thing for us to go through 21 the files and purge documents, or a log sheet, you know, that 22 was no longer effective, or whatever. 23 Q I'm just curious about this particular document that says at 24 the top, that security log as of June 17, 1993, and it refers 25 to a guaranty signed August 4, 1993 after the date of the
Page 52	Page 54
1 do you start asking the dealer for personal financial 2 statements? 3 A We would only ask for a personal financial statement if we 4 had a personal guaranty. 5 Q And I didn't see any correspondence from anybody in the file, 6 yourself, or Mr. Waugh, or anybody else, requesting from Mr. 7 Harbin a personal financial statement. Do you, as you sit 8 here, have any independent recollection of asking for one? 9 A No, I do not. 10 Q Would it be your place to ask for a personal guaranty, or not 11 personal guaranty, but personal financial statement, or would 12 it be somebody else's -- 13 A That would be part of what I would do, yes. 14 (Exhibit 16 marked for identification.) 15 Q I show you what's been marked as Deposition Exhibit 16 and 16 ask if you can identify that for the record. 17 A Well, this is a security agreement log, log sheet that we 18 would place in the credit file just as a quick reference to 19 any documents that we had on the deal. 20 Q Is this a form that you use in every credit file? 21 A At that time we used them in any credit file we had security 22 type agreements or guaranties, or documents of that sort. 23 Q So correct me if I'm wrong, but you keep this at the front of 24 the credit file so you can go into the file quickly to 25 determine whether or not there are personal guarantees or	1 log. Maybe that doesn't mean anything. I was just curious. 2 Do you have any explanation for that? 3 A Other than -- nothing other than the fact that this was 4 added, you know. 5 Q So it's something that you add to? 6 A Right. 7 Q Not pull it out and type it at some point, or back in '93 you 8 would have pulled it out typed it, new information? 9 A Right; correct. 10 Q Mr. James, I'm looking at the privilege log which was filled 11 out by your attorney, so you may not have any knowledge of 12 it, but I just want to go through some of these names and ask 13 if you can identify who they are; James O'Connor? 14 A James O'Connor. Jim O'Connor, he's on our legal staff. 15 Q Legal staff? Okay. Daniel Brondyk? 16 A He's on our legal staff. 17 Q Elizabeth Orelup? 18 A She's an outside attorney. 19 Q Patrick Schoen? 20 A He's an outside attorney. 21 Q Gary Malburg? 22 A He's our Vice President and Treasurer of Steelcase. 23 Q Is he on the Board of Directors; do you know? 24 A No. 25 Q Who is his boss?



# EXHIBIT 15

1 that you produced, you retained the copies of those  
2 checks as well as you might have retained the stubs of  
3 those checks. What I'm asking is sometimes there are  
4 checks and sometimes there aren't. What does it mean  
5 if the checks are present?  
6 A If the checks were present and stapled to the stubs,  
7 they were voided out.  
8 Q Okay. So even if they don't say "void," it just means  
9 that they were voided out?  
10 A Well, obviously you can't use a check if it was stapled  
11 to the -- if Check No. 2116 was stapled right here in  
12 the register, which many were, that check wasn't used.  
13 Q Okay. I had to ask because I got the copies of the  
14 records. Somebody from our Kalamazoo office came down.  
15 A Okay.  
16 Q So I just wanted to make sure I was understanding.  
17 A Okay.  
18 Q So thanks for your patience on it.  
19 A Okay.  
20 Q Well, I'll say thank you in advance for being patient  
21 while I surf through these. There were a lot of these  
22 check registers, and I wanted to make sure I -- So  
23 then throughout Exhibit 5 there are check stubs that  
24 say "Pay to the order FAFBO Harbins-Stern Brothers."  
25 Do you see that there are multiple of these throughout

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1 A No.  
2 Q One income?  
3 A Correct.  
4 Q And how much was that income?  
5 MR. SMITH: During what time period are you  
6 talking about?  
7 THE WITNESS: Yeah. I don't --  
8 BY MS. LACHMAN:  
9 Q In a year, what was your annual salary?  
10 A When?  
11 Q How about in 2000?  
12 A I don't know. 98,000 maybe.  
13 Q Okay. And in 2001?  
14 A I'd have to pull my tax records. I don't recall.  
15 Q But you think that your annual income was somewhere  
16 around 98,000?  
17 A No. That number just comes to my head. I think that  
18 was one of the years, but I don't know which one. And  
19 then it started going down dramatically.  
20 Q Okay. So in 2003, approximately what would your salary  
21 be annually?  
22 A Forty thousand maybe, 45,000.  
23 Q Okay.  
24 (At 11:42 a.m., Exhibit 6 marked.)  
25 BY MS. LACHMAN:

Page 89

1 the exhibit?  
2 A May, June, July. Yes.  
3 Q Okay. And so all of those are stubs, and because the  
4 checks weren't there, that means the checks went out;  
5 is that correct?  
6 A I can only say that because the check is there -- not  
7 there, it was not stapled to the stub, which I don't  
8 have in front of me, I'm assuming they went out.  
9 Q Okay. And you believe that was for profit-sharing for  
10 employees?  
11 A I believe it was.  
12 Q And we don't remember what "FAFBO" meant?  
13 A I don't.  
14 Q Okay. That's all I have on that exhibit.  
15 A Okay.  
16 Q You testified earlier that you did write checks to  
17 yourself personally sometimes?  
18 A Occasionally.  
19 Q And you said that those were for payroll?  
20 A Correct.  
21 Q How much was your income from Harbin's or Harbins-Stern  
22 Brothers? You were just paid once; is that correct?  
23 A No. We were paid every two weeks.  
24 Q I guess I meant you weren't paid from both Harbins-  
25 Stern Brothers and Harbin's?

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1 Q I'd like to submit this as Exhibit 6. This is another  
2 packet of the stubs that you provided. On page 1 of  
3 Exhibit 6 you have a pay stub to M. Harbin. Is that  
4 assumably you?  
5 A That's not a pay stub.  
6 Q Or a check stub.  
7 A Check stub.  
8 Q A check stub to M. Harbin. Is that assumably you?  
9 A That's correct.  
10 Q And in the amount of \$9,500?  
11 A That's correct.  
12 Q On page 2 of Exhibit 6 --  
13 A For the record, though, let's go back to --  
14 Q Okay.  
15 A -- Stub 9520. It says "certified check S.P."  
16 Q Um-hmm.  
17 A "S.P. Richards" was one of our vendors.  
18 Q Okay. And so the check was made out to you?  
19 A I would take the check to the bank and get a certified  
20 check because there was no charge to me, and then we  
21 would have to get certified funds to S.P. Richards.  
22 Q Did they require certified funds?  
23 A Yes.  
24 Q And so they always required a certified check?  
25 A They did for a period of time.

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1 Q And why wouldn't the -- couldn't the check have just  
2 been written for a cashier's -- for a certified check?  
3 Did it have to be written to you personally?  
4 A If we took a Harbin's check and took it to the bank  
5 and, say, debit the account, there was like a \$10  
6 charge for that check. With my checking account at  
7 AmSouth, I got free certified checks.

8 So I would take the Harbin's check, put it in  
9 my account, write out the check right there and hand it  
10 to the teller and say, "I need certified funds all  
11 payable to S.P. Richards." And so this is what all  
12 these are going to be for.

13 Q Okay. So, to avoid the \$10 service charge --

14 A Right.

15 Q -- you would have checks written to your personal  
16 account from Harbin's or Harbins-Stern Brothers,  
17 whichever, and then you --

18 A Um-hmm. Harbin's.

19 Q You said Harbin's. How did you know it was from  
20 Harbin's versus Harbins-Stern Brothers?

21 A Because I think I said earlier Harbins-Stern Brothers  
22 closed in 2000, 2001.

23 Q Oh, so you're looking at the date.

24 A I'm looking at the date.

25 Q Okay. And so, to go back, to avoid the \$10 fee you

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1 Q You wrote checks from your personal account, certified  
2 checks to S&P Richards, is what you're saying?

3 A No. I didn't write a certified check. I would take a  
4 check from Harbin's, --

5 Q Um-hmm.

6 A -- take it to my bank, --

7 Q Um-hmm.

8 A -- and then I would deposit it in my bank account. And  
9 then at the same time I would write a check out for  
10 9,500 to AmSouth Bank, and I would say, "Please make  
11 this payable to S.P. Richards." They in turn would  
12 make a certified check --

13 Q Right.

14 A -- payable to S.P. Richards.

15 Q Right.

16 A So the same time I credited my account 9,500, they  
17 debited my account 9,500, handed me a check payable to  
18 S.P. Richards, and saved me the \$10 service charge, or  
19 15 or whatever it was to get a certified check from  
20 Colonial or whoever we were banking with.

21 Q So you didn't keep any records of that?

22 A I don't have any records of that, no. The little pink  
23 copies and stuff that they gave me every day? We  
24 probably kept them for a while. If you'll look through  
25 those check registers, they may be stuck down in there.

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1 would write a check from your Harbin's, Incorporated,  
2 account to your personal account, and then you would  
3 write a cashier's check?

4 A I would write a check off my personal account and hand  
5 it to the bank and say I would need a certified  
6 cashier's check, and they did it. And they did it for  
7 a period of a couple weeks.

8 And then finally -- and I called S.P.  
9 Richards. I said, "Either you're going to lose our  
10 business or, you know, it'll go to United Stationers,  
11 because I'm going to quit running to the damn bank  
12 every day." And that's what I was doing.

13 And they were making the checks -- they were  
14 trying to average them out on our daily purchases.  
15 That's why they're all like 4,300, 4,200 and 4,200.  
16 And so they were -- 4,300, 4,200. They tried to make  
17 it an average on a daily basis, and then finally I got  
18 tired of going to the bank and said, "Either take our  
19 check, we would hand it to the driver the next morning,  
20 or, you know, we won't have your wholesale business."  
21 And so they stopped.

22 Q Okay. Do you have any records to show that those  
23 certified checks were actually drawn from your account?

MR. SMITH: Does he have any records?

25 BY MS. LACHMAN:

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1 But, no, I didn't keep them personally. I didn't --  
2 the transaction was done.

3 Q Okay. And so that was the page 1 with the 9500's.

4 A Certified check to S.P.

5 Q Right.

6 A Okay.

7 Q And if we go to page 2, Check Stub No. 9523 --  
8 A Certified check, S.P.

9 Q Um-hmm. In the amount of --

10 A Eighty-four hundred.

11 Q Okay. And then right below it, it's to Michael Harbin

12 --

13 A Um-hmm.

14 Q -- but it doesn't say "S.P. certified check."

15 A It was S.P. certified check.

16 Q And you know that because?

17 A Because I did it.

18 Q But you don't have any record of it?

19 A There will be a corresponding debit on my personal  
20 account where 4,200 went in and 4,200 went out payable  
21 to AmSouth Bank, and then they would probably denote on  
22 that check, the official check that went to S.P.  
23 Richards. So to go back and follow the trail, you  
24 would have to probably get that number off the check  
25 that the bank cashed from me to write the certified

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1 check.	1 \$4,200, and that's the same thing?
2 Q Okay. So you personally were operating as sort of the 3 middleman in the financial end between Harbin's, 4 Incorporated, and S.P. Richards?	2 A (witness nods)
5 A All I was doing was saving Harbin's, Incorporated, \$10 6 a day for a certified check.	3 MR. SMITH: Answer verbally.
7 Q Right. And you were doing that by having the money go 8 through your personal account and --	4 THE WITNESS: Yes.
9 A Correct.	5 BY MS. LACHMAN:
10 Q -- onward to S.P. Richards? Okay. So then I think we 11 just spoke about 9524. 9525, that's the same thing?	6 Q Okay. And the next page which is page 6 of Exhibit 6, 7 at the top 9541, and that is September 16, 2003 for 8 \$5,200 to Michael Harbin.
12 A 9525?	9 A Correct.
13 Q Um-hmm.	10 Q And it says "certified/S.P."
14 A That's correct.	11 A Correct.
15 Q Okay. That's in the amount of 4,200.	12 Q Okay. And again that's the same explanation?
16 A Correct.	13 A Yes.
17 Q On the next page, that's page 3 of Exhibit 6, 9527. 18 That's to M. Harbin for 4,200 with no note of S.P. 19 Richards.	14 Q Okay. And so what I saw just in that, my numbers 15 roughly added up to, I think, \$52,000 approximately 16 over about a 14-day period that entered your personal 17 account?
20 A Correct.	18 A (witness nods)
21 Q And that's your same explanation as before?	19 Q And you're saying that then it left your personal 20 account -- oh, can you give verbal responses, please?
22 A Yes.	21 A Yes.
23 Q Just got to get it all on the record.	22 Q So just to make sure we have it on the record, that's 23 approximately \$52,000 from Harbin's into your personal 24 account over a 14-day period?
24 A I understand.	25 A I haven't added it up, but if that's what you say, I'll
25 THE WITNESS: Can we stop for one second?	Page 97
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1 I'd like to go to the restroom.	1 trust what your calculations are.
2 MR. SMITH: Sure.	2 Q And you say that that money then went on to another
3 (From 11:49 a.m. to 11:52 a.m., deposition in 4 recess.)	3 vendor?
5 BY MS. LACHMAN:	4 A That money went payable to S.P. Richards.
6 Q Okay. So I think we were in the middle of Exhibit 6 on 7 page 4, and this is Check Stub 9530 and that's from 8 September 11, 2003 in the amount of 4,200, and that's 9 again to Michael Harbin. And so that was money from 10 Harbin's to your personal account; correct?	5 Q Okay. But you don't -- you personally don't have any 6 records of that?
11 A Correct.	7 A No.
12 Q Okay. And you say that it goes on to S.P. Richards?	8 MS. LACHMAN: Just one moment. Okay. Then 9 here, I don't know Karen if you'd like these submitted 10 as a packet or individually. I take it it doesn't 11 matter which way we do it. Which is easiest for you?
13 A Correct. The company would write me a check, I would 14 take the check, deposit it into my account, and then 15 immediately write a check out of my account payable to 16 the bank, and they would issue me a certified check 17 payable to S.P. Richards.	12 REPORTER: Makes no difference to me.
18 Q Okay. And then page 5, one on September 12, 2003 to 19 Michael Harbin in the amount of 4,200. That's Check 20 Stub 9533.	13 MS. LACHMAN: I think there are about four 14 pages. How about we just do it as a packet?
21 A It says "S.P." underneath that.	15 Is that easiest for you?
22 Q Okay. So that is again to your personal account and 23 then on to S.P. Richards?	16 MR. SMITH: Any way you want to do it is fine 17 with me.
24 A Correct.	18 MS. LACHMAN: Well, I'll just do it as a 19 packet, then. But I'll hand them to you first and then 20 we'll staple them, if that's okay. Okay. So that's 21 going to be page 1. Here's going to be page 2.
25 Q Next one, 9534, September 18, 2003 to Michael Harbin,	22 MR. SMITH: Do you need a stapler?
Page 96	23 REPORTER: Got one.
	24 MS. LACHMAN: She's got one right here.
	25 Totally prepared. That's going to be page 3.